

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL ROMAN,

PLAINTIFF,

COMPLAINT

-AGAINST-

ECF CASE

NEW YORK CITY and POLICE OFFICER JOHN DOE,
individually, and in his capacity as a member of the New
York City Police Department,

DEFENDANTS.

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PRELIMINARY STATEMENT

1. This is a civil action in which plaintiff Mr. Rafael Roman (“Mr. Roman”) seeks relief for the violation of his rights secured by 42 USC 1983, the Fourth and Fourteenth Amendments to the United States Constitution.
2. The claims arise from an incident on or about April 11, 2015, in which officers of the New York City Police Department (“NYPD”), acting under color of state law, intentionally and willfully subjected Mr. Roman to *inter alia* false arrest and excessive force.
3. Plaintiff seeks monetary damages (special, compensatory and punitive) against defendants and an award of costs and attorneys’ fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 USC 1331, 42 USC 1983, and the Fourth and Fourteenth Amendments to the United States Constitution.
5. Venue is laid within the United States District Court for the Southern District of New York in that the events giving rise to the claim occurred within the boundaries of the Southern District of New York.

PARTIES

6. Plaintiff, Mr. Roman, is a 43-year-old citizen of the United States and at all times here relevant resided at 50 Gouverneur Street, Apartment 2C, New York, NY 10002.
7. New York City is a municipal corporation organized under the laws of the State of New York.
8. Police Officer John Doe (“PO John Doe”) at all times here relevant was a member of the NYPD and is sued in his individual and professional capacity.
9. At all times mentioned, defendants were acting under color of state law, under color of the statutes, ordinances, regulations, policies, and customs and usages of the City of New York.

FACTUAL ALLEGATIONS

10. Mr. Roman is 43 years old and owns a pet grooming business.
11. On or about April 16, 2015, Mr. Roman was in downtown Manhattan with his girlfriend Ms. Perez.
12. Mr. Roman was looking at potential premises for his business.
13. At approximately 6:30 pm, Mr. Roman was at the southwest corner of the intersection between 5th Street and 1st Avenue.

14. Mr. Roman observed PO John Doe in a police vehicle sounding its siren at an elderly lady, who was crossing 5th Street.
15. Pedestrians had right-of-way as the lady crossed 5th Street.
16. Mr. Roman remarked to his Ms. Perez, in sum and substance, that the police officer had no patience.
17. PO John Doe got out of the vehicle and asked Mr. Roman what he had just said.
18. Mr. Roman told the officer that he was speaking to his girlfriend Ms. Perez.
19. PO John Doe responded by handcuffing Mr. Roman behind his back.
20. Mr. Roman told PO John Doe he had a bad back and that being handcuffed behind his back was causing him severe pain.
21. Mr. Roman requested that he be handcuffed in front of his back, but PO John Doe ignored his request.
22. PO John Doe hit Mr. Roman in his groin and forced Mr. Roman into a police vehicle.
23. PO John Doe forcefully shut the door of the police vehicle on Mr. Roman's foot.
24. Mr. Roman was taken to the 9th Precinct and held for several hours.
25. At approximately 9:30 pm, Mr. Roman was transferred to Central Bookings, where he was held overnight.
26. At approximately 11:30 am on April 12, 2015, Mr. Roman was charged with Obstruction of Governmental Administration, Disorderly Conduct and Resisting Arrest.
27. Mr. Roman had to return to court on several occasions.
28. Eventually all charges against Mr. Roman were dismissed.

29. Mr. Roman continues to feel traumatized by the events of April 2015, and is wary and fearful when he sees police officers.
30. Mr. Roman takes efforts to avoid police officers when in public.
31. Mr. Roman suffered physical injuries as a result of this incident, including *inter alia* pain in his wrists, back, foot and ankle.
32. Mr. Roman suffered following the incident and feels fear, embarrassment, humiliation, emotional distress, frustration, anxiety, and loss of liberty.

FIRST CAUSE OF ACTION

(42 USC 1983 – False Arrest)

33. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.
34. Defendants have deprived plaintiff of his civil, constitutional and statutory rights under color of law and are liable to plaintiff under 42 USC 1983.
35. Defendants have deprived plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that plaintiff was falsely arrested by defendants.
36. Defendants confined plaintiff.
37. Plaintiff was aware of, and did not consent to, his confinement.
38. The confinement was not privileged.
39. Plaintiff has been damaged as a result of defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court.

SECOND CAUSE OF ACTION

(42 USC 1983 – Excessive Force)

40. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.
41. Defendants have deprived plaintiff of his civil, constitutional and statutory rights under color of law and are liable to plaintiff under 42 USC 1983.
42. Defendants have deprived plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that defendants used excessive and unreasonable force in effecting the arrest of plaintiff.
43. Plaintiff has been damaged as a result of defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court.

THIRD CAUSE OF ACTION

(42 USC 1983 –Denial of Right to a Fair Trial)

44. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.
45. Defendants have deprived plaintiff of his civil, constitutional and statutory rights under color of law and are liable to plaintiff under 42 USC 1983.
46. Defendants have deprived plaintiff of his right to a fair trial, pursuant to the Fifth and Sixth Amendments to the United States Constitution.

47. Defendants created false information likely to influence a jury's decision and then forwarded that information to prosecutors, resulting in Plaintiff suffering a deprivation of liberty and a violation of his rights.

48. Plaintiff has been damaged a result of defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court.

JURY DEMAND

49. Plaintiff demands a trial by jury.

WHEREFORE, plaintiff respectfully requests that the court enter a Judgment against defendants together with costs and disbursements as follows:

In favor of plaintiff in an amount to be determined by a jury, but at least equal or exceeding the jurisdictional limit of this Court for each of plaintiff's causes of action;

Awarding plaintiff punitive damages in an amount to be determined by a jury;
Awarding plaintiff reasonable attorneys' fees, costs and disbursements of this action;

And such other and further relief as the Court deems just and proper.

Dated: New York, New York
November 6, 2015

By: _____ /s/
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